

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SERIOUS USA, INC; SERIOUS IP, INC.;
AND DXPDD, LLC, :
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Plaintiffs, :
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v. :
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CD DIGITAL CARD; CD WORKS; : Civ. Action No. 08-cv-4808 (GBD) (AJP)
DISCMAKERS; IMX SOLUTIONS, INC; :
INFINITE MARKETING INC; INGRAM :
MICRO INC; L&M OPTICAL DISC, LLC; :
MICROVISION DEVELOPMENT, INC.; :
ONEDISC.COM, INC.; and SONARUS :
CORPORATION, :
:
Defendants. :
:
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APPLICATION FOR DEFAULT JUDGMENT

Plaintiffs Serious USA, Inc. (“Serious”); Serious IP, Inc. (“Serious IP”); and DXPDD, LLC (“DXPDD”) (collectively “Plaintiffs”), hereby submit their application for default judgment (the “Application”) against Defendant Sonarus Corporation (“Sonarus”) pursuant to Rule 55(b) of the Federal Rules of Civil Procedure, and Rule 55.2(b) of the Local Rules of this Court. In support hereof, Plaintiffs state the following:

1. On May 22, 2008, Plaintiffs filed the Summons and Complaint alleging infringement of certain patents of which Plaintiffs are the owners. *See* Docket Item no. 1.
2. The Summons and Complaint were mailed to Sonarus on June 12, 2008, after several attempts were made to personally serve Sonarus *See* Declaration of Karine Louis, dated July 23, 2008 (“Louis Decl.”), ¶¶ 4-8; Exs. A-E.

3. On July 22, 2008, the Clerk of this Court executed a Certificate of Default for Sonarus which is being filed simultaneously with this Application.

4. Upon default, allegations of the Complaint pertaining to liability are deemed true and admitted. *See Greyhound Exhibitgroup, Inc. v. E.L.U.L. Realty Corp.*, 973 F.2d 155, 158 (2d Cir.1992) (“a party’s default is deemed to constitute a concession of all well pleaded allegations of liability”). *See also Century 21 Real Estate LLC v. Paramount Home Sales, Inc.*, No. 06-cv-2861 (FB)(JMA), 2007 WL 2403397, at *3 (E.D.N.Y. Aug. 20, 2007) (same); *Burch v. Nyarko*, No. 06 Civ. 7022 (LAP) (GWG), 2007 WL 2191615, at *1 (S.D.N.Y. July 31, 2007) (same).

5. The default establishes Sonarus’ liability to Serious IP and DXPPD for their claims against Sonarus as set forth in the Complaint. In short, the default establishes that:

- Sonarus has infringed United States Design Patent No. D503,404, U.S. Patent Nos. 6,510,124; 6,762,988; 7,308,696; and 6,304,544 (collectively the “Patents-in-Suit”) by the manufacture, use, sale, importation and/or offer for sale of the CD Business Card & Custom Shapes pursuant to 35 U.S.C. § 271;
- Sonarus has had notice of the Patents-in-Suit as of April 9, 2007 and has acted with reckless disregard as to their infringement, which has been and continues to be willful; and
- Sonarus willfully and wantonly infringed the Patents-in-Suit in deliberate and intentional disregard of Serious IP’s and DXPPD’s rights.

6. As a result of the default, Sonarus’ liability is established as to the following counts of the Complaint: I - Infringement of United States Design Patent No. D503,404; ¶¶ 44-

46; II - Infringement of United States Patent No. 6,510,124; ¶¶ 72-74; III - Infringement of United States Patent No. 6,762,988; ¶¶ 100-102; IV - Infringement of United States Patent No. 7,308, 696; ¶¶ 128-130; and VI- Infringement of United States Patent No. 6,304,544; ¶¶ 166-168.

Plaintiffs therefore seek a declaration that Sonarus has infringed, is infringing, has induced and is inducing, and has contributed and is contributing to the infringement of United States Design Patent No. D503,124; United States Patent Nos. 6,510,124; 6,762,988; 7,308,696; and 6,304,544; and

A permanent injunction enjoining Sonarus, their officers, agents, servants, employees and attorneys, and all those persons in active concert or participation with them, from manufacturing, purchasing, importing, exporting, distributing, circulating, selling, offering for sale, advertising, promoting or displaying all CD Business Card & Custom Shapes products.

Dated: New York, New York
July 23, 2008

DREIER LLP

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Attorneys for Plaintiffs Serious USA, Inc.;
Serious IP, Inc.; and DXPPD, LLC

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MICRO INC; L&M OPTICAL DISC, LLC;	:
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CORPORATION,	:
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Defendants.	:
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Civil Action No. 08-CV-4808 (GBD) (AJP)

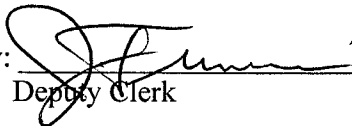
**CLERK'S CERTIFICATE FOR
DEFAULT JUDGMENT**

I, J. MICHAEL MCMAHON, Clerk of the United States District Court for the Southern District of New York, do hereby certify that this action commenced on May 22, 2008 with the filing of a summons and complaint, a copy of the summons and complaint was served by mail on defendant Sonarus Corporation ("Sonarus") on June 12, 2008, and proof of such service thereof was filed on June 12, 2008. I further certify that the docket entries indicate that Sonarus has not filed an answer or otherwise moved with respect to the complaint herein. The default of Sonarus is hereby noted.

Dated: New York, New York
July ~~2~~, 2008

J. MICHAEL MCMAHON

Clerk of the Court

By: _____
Deputy Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SERIOUS USA, INC; SERIOUS IP, INC.;
AND DXPDD, LLC, :

Plaintiffs, :

v. :

CD DIGITAL CARD; CD WORKS; : Civ. Action No. 08-cv-4808 (GBD) (AJP)
DISCMAKERS; IMX SOLUTIONS, INC; :
INFINITE MARKETING INC; INGRAM : **[PROPOSED] ORDER TO GRANT**
MICRO INC; L&M OPTICAL DISC, LLC; : **DEFAULT JUDGMENT AGAINST**
MICROVISION DEVELOPMENT, INC.; : **SONARUS CORPORATION**
ONEDISC.COM, INC.; and SONARUS
CORPORATION, :

Defendants. :
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WHEREAS, Plaintiffs Serious USA, Inc.; Serious IP, Inc.; and DXPDD, LLC
("Plaintiffs") have filed an Application to this Court for Default Judgment pursuant to Rule 55(b)
of the Federal Rules of Civil Procedure, and Rule 55.2(b) of the local rules of this court;

WHEREAS, the Clerk of this Court executed a Certificate of Default Judgment against
Defendant Sonarus Corporation ("Sonarus") on July 22, 2008;

WHEREAS, based upon the Court's review of Plaintiffs' Application and declaration
submitted in connection with the same and upon the record of proceedings in this case;

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. Defendant Sonarus has infringed, is infringing, has induced and is inducing, and
has contributed and is contributing to the infringement of United States Design Patent No.
D503,124; United States Patent Nos. 6,510,124; 6,762,988; 7,308,696; and 6,304,544;

2. Defendant Sonarus, their officers, agents, servants, employees and attorneys, and all those persons in active concert or participation with them are permanently enjoined from manufacturing, purchasing, importing, exporting, distributing, circulating, selling, offering for sale, advertising, promoting or displaying all CD Business Card & Custom Shapes products.

IT IS SO ORDERED this ____ day of July 2008.

Andrew J. Peck
United States Magistrate District Judge

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